

ORDINANCE NO. 2451 (N.C.S.)

**AN ORDINANCE OF THE CITY OF SALINAS AMENDING ARTICLE III OF
CHAPTER 17 (HOUSING) OF THE SALINAS MUNICIPAL CODE RELATING TO
THE PROVISION OF INCLUSIONARY HOUSING**

BE IT ORDAINED BY THE COUNCIL OF SALINAS:

Section 1. Article 3 (Housing) of Chapter 17 (Housing) of the Salinas Municipal Code is amended to read as follows:

Section 17-6. Findings and Declarations.

The City Council of Salinas finds and declares as follows:

(a) Rental and owner-occupied housing in Salinas has become steadily more expensive. Although Salinas has historically included much of the housing affordable to Monterey County's workforce, in recent years housing costs have escalated sharply, increasing faster than incomes for many groups in the community. As a result, there is a severe shortage of adequate, affordable housing for very low, lower, moderate, and workforce income households, as evidenced by the following:

(1) According to the Salinas Housing Element, 24 percent of Salinas households are very low income households; 20 percent are lower income households; and 24 percent are moderate income households. The Bay Area Economics (BAE) Report of December 14, 2004, found that very low income households could not afford any of the units sold between August and November 2004. During the same period, lower income households could not afford any condominiums and 99 percent of single-family homes sold; moderate income households could not afford 99 percent of single-family homes and 92 percent of condominiums sold; and workforce income households could not afford 98 percent of single-family homes and 45 percent of condominiums sold. In total, households earning up to 160 percent of area median income

could afford only six of 399 single-family homes and 29 of the 53 condominiums sold, or eight percent of all for-sale units during the study period.

(2) The BAE Report of May 2003 found that very low and lower income families with four or more persons cannot afford the average monthly rent for an apartment of adequate size.

(3) Because of the shortage of affordable housing in Salinas, many families overpay for their housing. The 2000 United States Census found that approximately 31 percent of Salinas households who own their homes pay more than 30 percent of income for their mortgage, while 40 percent of renter households pay more than 30 percent of income for housing. These households are overpaying for their housing, according to standards of the United States Department of Housing and Urban Development. Providing decent housing at affordable costs allows households to utilize their resources for other necessary pursuits, such as education, food, investment, and saving for retirement. Providing decent rental housing at affordable costs allows households to save money to purchase a home.

(4) There is a shortage of units of adequate size to serve the needs of large households in Salinas. According to the 2000 Census, Salinas households are much larger than the state average. The average household size in Salinas is 3.66, while in California the average household size is 2.87. Salinas has an overall overcrowding rate over twice the statewide rate. Over 32 percent of all households in Salinas are overcrowded, compared with 15 percent of all housing statewide. Forty-three percent (43%) of the city's rental households are overcrowded, compared with a statewide overcrowding rate for rental housing of 24 percent. The 2000 Census found that the City of Salinas has the fourth highest rate of overcrowding in the United States, as measured by the percentage of households with 1.5 or more people per room.

(5) The Jobs and Housing Report prepared by Monterey County (March 29, 2001) and the Jobs-Housing Research Study prepared by Hausrath Economics Group (March 2001) found that over 90 percent of residents of the Greater Salinas area (the City of Salinas plus adjacent unincorporated area) work in Monterey County. The studies also found that lower wage jobs are dominant in Monterey County, and that typical wage earners in Monterey County cannot afford the single-family detached housing being produced. In those economic sectors with the greatest growth potential, over half of new jobs created are expected to provide wages at very low income and lower income levels. Consequently, the studies projected that a significant need would remain for housing affordable to very low, lower, moderate, and workforce income families.

(6) According to the December 14, 2004, BAE report, the need for housing is likely even greater than indicated in subparagraph (1) above, because the analysis of housing prices in relation to household income did not take into account the number of bedrooms. While a household may be able to afford a particular unit, the number of bedrooms in that unit may be inadequate for the size of the family, particularly given the large families typical of Salinas. While the median income of Salinas households is 92 percent of the California median, the per capita income of Salinas residents is only 63 percent of the California median, providing further evidence of the inability of Salinas households to purchase or rent dwelling units of adequate size.

(b) The 2000 – 2007 Regional Housing Needs Plan for Monterey and Santa Cruz counties, mandated by California Government Code section 65584 and prepared by the Association of Monterey Bay Area Governments, shows that 64 percent of new housing in Salinas should be affordable to very low, lower, and moderate income families. However, the

December 14, 2004, BAE report suggests that less than five percent of housing sold in Salinas is affordable to these families. Federal and State government programs do not provide nearly enough affordable housing or subsidies to provide the required percentage of moderate, lower or very low income households.

(c) The City of Salinas Land Use Element projects that an additional 20,000 dwelling units will be constructed within the existing city limits and in designated Focused and Future Growth Areas. Land immediately available for affordable, lower income housing has become scarce due to the completion of in-fill development. If the development that occurs in the Future Growth Areas does not include affordable housing, the land available for affordable housing will be continually reduced. To ensure that market-rate housing projects in the Future Growth Areas do not further reduce the land available for affordable housing, Program 5 in the Salinas Housing Element supports implementation of the inclusionary housing program existing in September 2002. It also states that the City will review the existing ordinance for potential modifications to enhance the program, including issues such as extending the period of affordability, requiring units for moderate-income households, and determining the legality and feasibility of increasing inclusionary percentages from 15 to 40 percent. The City has reviewed the existing ordinance for potential modifications to enhance the program as contemplated in Program 5. The amendments to this Article adopt the feasible and legal changes identified by the review.

(d) As stated in the Housing Element of the City of Salinas General Plan (Policy H-1.1), it is the City's policy to enhance the public welfare by encouraging a variety of housing prices throughout the City to give households of all income levels the opportunity to find suitable housing. It is also the City's policy to identify adequate sites for the City's existing and projected housing needs (Policy H-1.3) and to encourage the geographic dispersal of affordable housing

throughout the City to enhance the social and economic well being of all residents (Policy H-1.5). The Housing Element further encourages the development of affordable housing with three or more bedrooms (Policy H-3.2) and through inclusionary housing (Policy H-3.7). The City can achieve its goals of providing more affordable housing and achieving an economically balanced community only if part of the new housing built in the City is affordable to households with limited incomes. In addition, this inclusionary ordinance encourages the development of affordable housing with three or more bedrooms.

(e) This amended inclusionary ordinance will substantially advance the City's legitimate interest in providing additional housing affordable to all income levels and dispersed in every residential development in the City because all inclusionary units required by this ordinance, including both rental and ownership units, must be affordable to very low, lower, moderate, and workforce income households. In addition, the December 2004 BAE report shows that:

(1) This amended inclusionary ordinance is projected to result in approximately 3,700 to 6,400 affordable housing units out of a total 2002 General Plan build-out of 18,400 new units, compared with 2,200 total affordable units that would result from the existing inclusionary ordinance. Under the amended ordinance, at least 2,200 units will be constructed that are targeted to very low and lower income households.

(2) The inclusionary housing requirements in this amended ordinance are expected to enable the private sector, which constructs most new housing in Salinas, to continue to provide new housing, because the requirements are economically feasible for typical projects without the use of any public housing subsidies, based upon conventional private industry standards and profit thresholds prevalent at the time of the study.

(3) The inclusionary housing requirements in this amended ordinance address developers' needs for additional flexibility in meeting their inclusionary housing requirements.

(f) In addition, the ordinance will substantially advance the City's interest in meeting the needs of large families by requiring that 60 percent of inclusionary units have three bedrooms or more.

(g) This ordinance is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare. Requiring affordable units within each development is consistent with the community's Housing Element goals of protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels and maintaining both economic diversity and geographically dispersed affordable housing. Requiring builders of new market-rate housing to include some housing affordable to very low, lower, moderate, and workforce-income households is also reasonably related to the impacts of their projects, because new development without affordable units reduces the land available for construction of affordable housing. Requiring construction of affordable housing is also appropriate because developers will continue to be able to build economically viable projects without public subsidies while incorporating affordable housing into their projects.

Section 17-6. Purpose

The purposes of this article are to enhance the public welfare by establishing policies which require the development of housing affordable to households of very low, lower, moderate, and workforce incomes; which meet the City's regional share of housing needs; and which implement the housing element's goals and objectives.

Section 17-7. Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give this article its most reasonable application.

(a) "Affordable Housing Plan" means a plan submitted in conformance with Section 17-17 specifying the manner in which inclusionary units will be provided in conformance with this Article and consistent with the Salinas General Plan and Chapter 37 of the Salinas Municipal Code.

(b) "Affordable ownership cost" means a reasonable down payment and an average monthly housing cost during the first calendar year of occupancy, including mortgage loan principal and interest, mortgage insurance, property taxes and property assessments, homeowners insurance, homeowners association dues, if any, and all other dues and fees assessed as a condition of property ownership, which does not exceed: (A) 30 percent of 50 percent of area median income for very low income households; (B) 30 percent of 80 percent of area median income for lower income households; (C) 30 percent of 120 percent of area median income for moderate-income households; (D) 30 percent of 160 percent of area median income for workforce-income households. Area median income shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, five persons in a four-bedroom unit, and six persons in a five-bedroom unit. The City Council, by resolution, shall establish guidelines for determining affordable ownership cost in accordance with this section.

(c) "Affordable rent" means monthly rent, including a reasonable utility allowance and all mandatory fees charged for use of the property, which does not exceed: (A) 30 percent of

50 percent of area median income for very low income households; (B) 30 percent of 60 percent of area median income for lower income households; (C) 30 percent of 110 percent of area median income for moderate-income households; (D) 30 percent of 150 percent of area median income for workforce-income households. Area median income shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, and five persons in a four-bedroom unit. The City Council, by resolution, shall establish guidelines for determining affordable rent in accordance with this section.

(d) "Applicant" means a person or entity who applies for a residential development and, if the applicant does not own the property on which development is proposed, also means the owner or owners of the property.

(e) "Area median income" means the annual median income for Monterey County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of Salinas in the event that such median income figures are no longer published periodically in the California Code of Regulations.

(f) "Construction phase" means either the area included within one final subdivision map, including each final map in a residential development where multiple final maps are filed; or an area designated as a construction phase in an approved Affordable Housing Plan.

(g) "Density bonus units" means dwelling units approved in a residential development pursuant to California Government Code section 65915 that are in excess of the maximum allowable residential density otherwise permitted by the Salinas General Plan or Zoning Ordinance. "Density bonus units" also means dwelling units approved in a residential

development pursuant to other density bonus provisions of Chapter 37 of the Salinas Municipal Code that are in excess of the maximum allowable residential density otherwise permitted by the Salinas General Plan or Zoning Ordinance.

(h) "Dwelling unit" means a dwelling unit as defined in Chapter 37 of the Salinas Municipal Code.

(i) "First approval" means the first of the following approvals to occur with respect to a residential development: Specific Plan, Development Agreement, Planned Unit Development Permit, Tentative Map, Minor Subdivision, Conditional Use Permit, Site Plan Review, Building Permit.

(j) "Inclusionary Housing Agreement" shall mean an agreement in conformance with Section 17-17(g) between the City and an applicant, governing how the applicant shall comply with this Article.

(k) "Inclusionary unit" means a dwelling unit required by this Article to be affordable to very low, lower, moderate, or workforce-income households.

(l) "Lower income households" means households with an annual income which does not exceed the United States Department of Housing and Urban Development's annual determination for lower income households with incomes of approximately 80 percent of area median income, adjusted for household size.

(m) "Market rate unit" means a new dwelling unit in a residential development which is not an inclusionary unit as defined by subdivision (k) of this Section.

(n) "Moderate income households" means households whose income does not exceed 120 percent of area median income, adjusted for household size in accordance with adjustment

factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

(o) "Residential development" means any project requiring any Specific Plan, Development Agreement, Planned Unit Development Permit, Tentative Map, Minor Subdivision, Conditional Use Permit, Site Plan Review, or Building Permit, for which an application has been submitted to the City, and which would create ten or more new or additional dwelling units by construction or alteration of structures.

(p) "Unit type" means a single-family detached unit, a multifamily unit, or another unit type as defined in Section 37 of the Salinas Municipal Code.

(q) "Utilities" means garbage collection, sewer, water, electricity, gas and other heating, and cooking and refrigeration fuels.

(r) "Very low-income households" means households with an annual income which does not exceed the United States Department of Housing and Urban Development's annual determination for very low income households with incomes of approximately 50 percent of area median income, adjusted for household size.

(s) "Workforce income households" means households with an annual income less than 160 percent of area median income, adjusted for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

Section 17-8. Applicability.

The provisions of this Article shall apply to all residential developments, as defined in Section 17-8(o), except for those residential developments exempt under Section 17-10.

Section 17-9. Exemptions.

This Article shall not apply to the following:

- (a) Projects which are not residential developments as defined in Section 17-8(o).
- (b) Projects with fewer than ten dwelling units.
- (c) Residential developments which are developed pursuant to the terms of a development agreement executed prior to the effective date of this ordinance, provided that such residential developments shall comply with any affordable housing requirements included in the development agreement or any predecessor ordinance in effect on the date the development agreement was executed.
- (d) Residential developments if exempted by Government Code Section 66474.2 or 66498.1, provided that such residential developments shall comply with any predecessor ordinance in effect on the date the application for the development was deemed complete.

Section 17-10. Basic inclusionary housing options.

- (a) The requirements of this section are minimum requirements and shall not preclude a residential development from providing additional affordable units or affordable units with lower rents or sales prices than required by this section.
- (b) All new residential developments of ten or more units, as defined in Section 17-8(p), shall include inclusionary units. Calculations of the number of inclusionary units required by this section shall be based on the number of dwelling units in the residential development excluding any density bonus units, as defined in Section 17-8(g).
- (c) Those affordable dwelling units and any dedication of property that qualify a residential development for density bonus units may not also be used to meet the inclusionary requirements of this Article.

(d) Residential developments containing ten to nineteen units shall provide inclusionary units as prescribed in either paragraph (1) or (2) of this subsection.

(1) Two units shall be made available to lower income households either for rent at an affordable rent or for purchase at an affordable ownership cost. The inclusionary units shall have the same proportion of unit types as the market-rate units in the residential development, except that single-family detached inclusionary units may have smaller lots than single-family detached market-rate units, as consistent with the Salinas Zoning Ordinance. The inclusionary units shall have the same square footage and the same bedroom count as the market-rate units, except that the square footage of single-family detached inclusionary units shall be the greater of one thousand five hundred (1,500) square feet in size or 80 percent of the median square footage of the market-rate units.

(2) Alternatively, inclusionary units shall be provided as prescribed in any one of the three inclusionary housing options described in subsection (e) of this section.

(e) Residential developments containing twenty units or more shall include inclusionary units as prescribed in any one of the following three inclusionary housing options.

(1) **Option One.** A minimum of four percent of the dwelling units shall be affordable to very low income households, eight percent shall be affordable to lower income households, four percent shall be affordable to moderate income households, and four percent shall be affordable to workforce income households, for a minimum 20 percent inclusionary units total.

(A) All units required to be affordable to very low income households shall be made available either for rent at an affordable rent or for purchase at an affordable ownership cost. At least 50 percent of units required to be affordable to lower income

households shall be made available for purchase at an affordable ownership cost. The remaining units required to be affordable to lower income households shall be made available either for rent at an affordable rent or for purchase at an affordable ownership cost. All units required to be affordable to moderate income and workforce income households shall be made available for purchase at an affordable ownership cost. Notwithstanding the above, if all of the units in a residential development are made available for rent, then all inclusionary units may be made available for rent at an affordable rent.

(B) The inclusionary units shall have the same proportion of unit types as the market-rate units in the residential development, except that single-family detached inclusionary units may have smaller lots than single-family detached market-rate units, as consistent with the Salinas Zoning Ordinance, and inclusionary units made available for rent to very low or lower income households may consist of any unit type selected by the applicant. The inclusionary units shall have the same square footage and the same bedroom count as the market-rate units, except that the square footage of single-family detached inclusionary units shall be the greater of one thousand five hundred (1,500) square feet in size or 80 percent of the median square footage of the market-rate units.

(C) All required inclusionary units shall be constructed on site, and no fees may be paid in lieu of construction of units on site.

(D) All required inclusionary units shall be constructed and made available for occupancy concurrently with the market-rate units. For the purposes of this subsection (D), "concurrently" means that for each Building Permit issued for an inclusionary unit, the City may issue four Building Permits for market-rate units; and the City may not approve any final inspections for single-family detached homes, or any Certificates of

Occupancy for all other residences, unless at least 20 percent of all final inspections or Certificates of Occupancy, as appropriate, in the residential development have been approved for inclusionary units.

(2) **Option Two.** A minimum of five percent of the dwelling units shall be affordable to very low income households, ten percent shall be affordable to lower income households, five percent shall be affordable to moderate income households, and five percent shall be affordable to workforce income households, for a minimum 25 percent inclusionary units total.

(A) All units required to be affordable to very low income and lower income households shall be made available either for rent at an affordable rent or for purchase at an affordable ownership cost. All units required to be affordable to moderate income and workforce income households shall be made available for purchase at an affordable ownership cost. Notwithstanding the above, if all of the units in a residential development are made available for rent, then all inclusionary units may be made available for rent at an affordable rent. Inclusionary units may consist of any unit type selected by the applicant.

(B) All required inclusionary units shall be constructed on site, and no fees may be paid in lieu of construction of units on site.

(C) The City may not issue Building Permits for more than 90 percent of the market rate units within a construction phase in a residential development until it has issued Building Permits for all of the inclusionary units to be included in that construction phase. The City may also not approve final inspections for single-family detached homes, or Certificates of Occupancy for all other residences, for more than 90 percent of the market rate

units within a construction phase until it has approved final inspections or Certificates of Occupancy, as appropriate, for all of the inclusionary units within that construction phase.

(3) **Option Three.** A minimum of seven percent of the dwelling units shall be affordable to very low income households, twelve percent shall be affordable to lower income households, eight percent shall be affordable to moderate income households, and eight percent shall be affordable to workforce income households, for a minimum 35 percent inclusionary units.

(A) All units required to be affordable to very low income and lower income households shall be made available either for rent at an affordable rent or for purchase at an affordable ownership cost. At least 50 percent of units required to be affordable to moderate income households shall be made available for purchase at an affordable ownership cost. The remaining units required to be affordable to moderate income households shall be made available either for rent at an affordable rent or for purchase at an affordable ownership cost. All units required to be affordable to workforce income households shall be made available for purchase at an affordable ownership cost. Notwithstanding the above, if all of the units in a residential development are made available for rent, then all inclusionary units may be made available for rent at an affordable rent. Inclusionary units may consist of any unit type selected by the applicant.

(B) Except as provided in subsections (C) and (D) below, the City may not issue Building Permits for more than 90 percent of the market rate units within a construction phase in a residential development until it has issued Building Permits for all of the inclusionary units to be included in that construction phase. The City may also not approve final inspections for single-family detached homes, or Certificates of Occupancy for all other residences, for more

than 90 percent of the market rate units within a construction phase until it has approved final inspections or Certificates of Occupancy, as appropriate, for all of the inclusionary units within that construction phase.

(C) Subject to the approval of the City Council, the applicant may elect to (1) pay in lieu fees to the City, in the amount prescribed by the City Council pursuant to Section 17-15, for all or part of the very low and lower income inclusionary units required in the development, and (2) dedicate to the City sufficient vacant, uninhabited land within the residential development, with marketable title approved by the City, to permit construction of the number and type of the inclusionary units for which in-lieu fees were paid, assuming densities on the dedicated site consistent with the Zoning Ordinance, development standards, and General Plan. Infrastructure to serve the dedicated site or sites, including but not limited to streets and public utilities, must be available at the property boundary and have adequate capacity to serve the number and type of inclusionary units proposed to be located on the site. After all in-lieu fees are paid and the property is dedicated to the City, then the phasing requirements of subsection (B) apply only to the moderate-income and workforce-income inclusionary units, and to any very low and lower income units for which in-lieu fees have not been paid.

(D) Subject to the approval of the City Council, the applicant may alternatively elect to contract with a non-profit corporation approved by the City to construct all or part of the inclusionary units required by Option Three. The Inclusionary Housing Agreement required in Section 17-17 shall contain specific assurances guaranteeing the timely completion of the required inclusionary units, including satisfactory assurances that construction and permanent financing will be secured for the construction of the units within a reasonable time. After the Inclusionary Housing Agreement is approved by the City, then the phasing requirements of

subsection (B) apply only to inclusionary units not included in the contract with the non-profit corporation.

Section 17-11. Treatment of fractional units and allocation among income categories.

(a) In computing the total number of inclusionary units required in a residential development, fractions of one-half or greater shall be rounded up to the next highest whole number, and fractions of less than one-half shall be rounded down to the next lowest whole number.

(b) In allocating the total required inclusionary units among the income categories for Options One and Two, inclusionary units shall be provided in the following order:

(1) The first two required inclusionary units shall be affordable to lower income households.

(2) The third required inclusionary unit shall be affordable to very low income households.

(3) The fourth required inclusionary unit shall be affordable to moderate income households.

(4) The fifth inclusionary unit shall be affordable to workforce income households.

(5) All additional required inclusionary units shall be provided in the same order as above.

(c) For Option Three, inclusionary units for residential developments with 20 to 100 dwelling units, excluding density bonus units, shall be allocated among income categories as shown on attached Table One, incorporated into this Article of the Salinas Municipal Code. For

residential developments with more than 100 dwelling units, the required percentage of inclusionary units within each income category shall be applied to the number of units in the residential development, excluding density bonus units. If this results in a fractional number of units, fractions of one-half or greater shall be rounded up to the next highest whole number, while fractions of less than one-half shall be rounded down to the next lowest whole number, except that in no case shall the required number of inclusionary units be more or less than the number computed pursuant to subsection (a) of this section.

(d) For any other requirements of this Article resulting in a fractional number of units, fractions of one-half or greater shall be rounded up to the next highest whole number, while fractions less than one-half shall be rounded down to the next lowest whole number.

(e) An applicant may propose an alternative method of treating fractional units and allocating units among income categories pursuant to Section 17-17(f).

Section 17-12. Standards for inclusionary units.

(a) For Option One, inclusionary units shall have the same square footage and the same bedroom count as the market-rate units, except that the square footage of single-family detached inclusionary units shall be the greater of one thousand five hundred (1,500) square feet in size or 80 percent of the median square footage of the market-rate units.

(b) For Options Two and Three, a minimum of sixty percent of the inclusionary units in a residential development shall have three or more bedrooms, and no more than ten percent of the inclusionary units in a residential development shall have one bedroom. Inclusionary units shall not include studio apartments or single room occupancy residences. However, notwithstanding the above, if fewer than sixty percent of the market-rate units in the residential development have three or more bedrooms, and/or if more than ten percent of the market-rate

units have one bedroom, and/or if the market-rate units include studio apartments and/or single room occupancy residences, then the inclusionary units may have the same proportion of units with three or more bedrooms, one bedroom, studio apartments, and/or single room occupancy dwellings, respectively, as the market-rate units.

(c) Single-family detached inclusionary units shall be dispersed throughout the residential development. Townhouse, rowhouse, and multifamily inclusionary units shall be located so as not to create a geographic concentration of inclusionary units within the residential development.

(d) The quality of exterior design and overall quality of construction of the inclusionary units shall meet all site, design, and construction standards included in Chapter 9 (Buildings), Chapter 31 (Subdivisions), and Chapter 37 (Zoning) of the Salinas Municipal Code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the Salinas City Council.

(e) Inclusionary units made available for purchase shall include space and connections for a clothes washer and dryer within the unit. Inclusionary units made available for rent shall include either connections for a clothes washer and dryer within the inclusionary unit or sufficient on-site self-serve laundry facilities to meet the needs of all tenants without laundry connections in their units.

(f) All inclusionary units shall meet the minimum standards included in the table below:

	Single-Room Occupancy	Studio	One Bedroom	Two Bedrooms	Three Bedrooms	Four Bedrooms
Minimum Size (sq. ft.)	250	500	650	900	1,100	1,275
Minimum No. Bathrooms*	$\frac{3}{4}$	1	1	1	$1\frac{3}{4}$	$1\frac{3}{4}$

*A full bathroom includes sink, toilet, and tub with shower. A $\frac{3}{4}$ bath includes a sink, toilet, and tub or shower.

Section 17-13. Incentives.

(a) In Option One, single-family detached inclusionary units may be constructed on smaller lots than market-rate units in the same residential development.

(b) In Options Two and Three:

(1) Inclusionary units may be smaller in size than market-rate units in the same residential development.

(2) Inclusionary units may consist of different unit types than market-rate units in the same residential development, subject to the limitations included in Section 17-13(b).

(3) No more than 60 percent of inclusionary units are required to have three or more bedrooms regardless of the percentage of units with three or more bedrooms in the residential development.

(4) Ninety percent (90%) of the market-rate units in a construction phase may be completed prior to construction of the inclusionary units within that phase.

(c) In Option Three, the applicant may choose to pay fees and dedicate property in lieu of constructing the very low income and lower income inclusionary units; or may contract with a non-profit corporation to construct all or part of the inclusionary units.

(d) Inclusionary units may have different interior finishes and features than market-rate units in the same residential development, as long as the finishes and features are durable and of good quality.

Section 17-14. In-lieu fees.

(a) In-lieu fees permitted pursuant to Section 17-11(e)(3)(C) of this Article (Option Three) shall be equal to the difference between: (1) the amount of a conventional permanent loan that an inclusionary unit would support based on the affordable rent for the required inclusionary unit, and (2) the estimated total development cost per inclusionary unit based on the cost per unit of similar Salinas affordable housing and/or inclusionary units. The amount of in-lieu fees shall be established by resolution of the City Council and updated periodically, as required.

(b) In-lieu fees shall be paid upon the earlier of: 1) dedication of a site for affordable housing, pursuant to Section 17-11(e)(3)(C); or 2) issuance of a Building Permit for the first market-rate unit in the residential development, excluding a maximum of ten model homes.

(c) All in-lieu fees collected under this Section shall be deposited in the City of Salinas Inclusionary Housing Trust Fund established pursuant to Section 17-18.

Section 17-15. Continued affordability and initial occupancy.

(a) The City Council, by resolution, shall approve standard documents to ensure the continued affordability of the inclusionary units approved in each residential development. The documents may include, but are not limited to, Inclusionary Housing Agreements, regulatory agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents, which shall be recorded against all inclusionary units. Affordability documents for ownership inclusionary units may also include subordinate shared

appreciation documents permitting the City to capture at resale the difference between the market rate price of the inclusionary unit and the affordable price consistent with Section 17-8(b), plus a share of appreciation realized from an unrestricted sale in such amounts as deemed necessary by the City to replace the inclusionary unit.

(b) In the case of inclusionary units offered for sale, any subordinate shared appreciation documents shall continue for a term of at least thirty (30) years. If resale restrictions are used in lieu of shared appreciation documents, any resale restriction shall continue for a term of at least thirty (30) years. In the case of inclusionary units offered for rent, all documents approved pursuant to subsection (a) shall have a term of at least thirty (30) years. A longer term of affordability may be required if the residential development receives a subsidy of any type, including but not limited to loan, grant, mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability, or as prescribed in any guidelines adopted pursuant to Section 17-20(a).

(c) All promissory note repayments, shared appreciation payments, or other payments collected under this Section shall be deposited in the City of Salinas Inclusionary Housing Trust Fund established pursuant to Section 17-18.

(d) Any household that occupies an inclusionary unit must occupy that unit as its principal residence.

(e) No household may begin occupancy of an inclusionary unit until the household has been determined to be eligible to occupy that unit. The City Council, by resolution, shall establish guidelines for determining household income, maximum occupancy standards, affordable ownership cost, affordable rent, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.

(f) Any person who is a member of the Salinas City Council or the Salinas Planning Commission, and their immediate family members, and any person having any equity interest in the residential development, including but not limited to a developer, partner, investor, or applicant, and their immediate family members, is ineligible to rent, lease, occupy, or purchase an inclusionary unit. The City Council, by resolution, may establish guidelines for determination of "immediate family members."

Section 17-16. Affordable Housing Plan submittal and Inclusionary Housing Agreement.

(a) An Affordable Housing Plan shall be submitted as part of the first approval of any residential development. No application for a first approval for a residential development may be deemed complete unless an Affordable Housing Plan is submitted conforming with the provisions of this Article.

(b) For each construction phase, the Affordable Housing Plan shall specify, at the same level of detail as the application for the residential development: the inclusionary housing option selected pursuant to Section 17-11, the number, unit type, tenure, number of bedrooms and baths, approximate location, size, and design, construction and completion schedule of all inclusionary units, phasing of inclusionary units in relation to market-rate units, and marketing plan. If the applicant selects Option One, the Affordable Housing Plan may also specify the method to be used to ensure that the inclusionary units have the same square footage and the same bedroom count as the market-rate units. The Affordable Housing Plan shall also specify the methods to be used to verify tenant incomes and to maintain the affordability of the inclusionary units and shall specify a financing mechanism for the on-going administration and monitoring of the inclusionary units.

(c) Upon submittal, the City Manager or designee shall determine if the Affordable Housing Plan is complete and conforms to the provisions of this Article. The decision of the City Manager or designee may be appealed to the City Council in accordance with procedures for notice and hearing contained in Chapter 37 of the Salinas Municipal Code.

(d) The Affordable Housing Plan shall be reviewed as part of the first approval of any residential development. The Affordable Housing Plan shall be approved if it conforms to the provisions of this Article. A condition shall be attached to the first approval of any residential development to require recordation of the Inclusionary Housing Agreement described in subsection (g) prior to the approval of any final or parcel map or building permit for the residential development.

(e) A request for a minor modification of an approved Affordable Housing Plan may be granted by the City Manager or designee if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original Plan.

(f) An applicant may propose an alternative method of meeting inclusionary housing requirements that does not strictly comply with the requirements of this Article. The City Council may approve such an alternative if it determines, based on substantial evidence, that the alternative will provide as much or more affordable housing at the same or lower income levels, and of the same or superior quality of design and construction, and will otherwise provide greater public benefit, than compliance with the express requirements of this Article.

(g) Following the first approval of a residential development, the City shall prepare an Inclusionary Housing Agreement providing for implementation of the Affordable Housing Plan and consistent with any program guidelines adopted by resolution of the City Council.

Prior to the approval of any final or parcel map or issuance of any Building Permit for a residential development subject to this Article, the Inclusionary Housing Agreement shall be executed by the City and the applicant and recorded against the entire residential development property to ensure that the agreement will be enforceable upon any successor in interest.

(h) The City Council by resolution may establish fees for the on-going administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

Section 17-17. Inclusionary Housing Trust Fund.

(a) All in-lieu fees, fees, promissory note repayments, shared appreciation payments, or other funds collected under this Article shall be deposited into a separate account to be designated the City of Salinas Inclusionary Housing Trust Fund.

(b) The monies in the Inclusionary Housing Trust Fund and all earnings from investment of the monies in the Inclusionary Housing Trust Fund shall be expended exclusively to provide housing affordable to very low income, lower income, moderate income, and workforce income households in the City of Salinas.

Section 17-18. Waiver.

(a) Notwithstanding any other provision of this Article, the requirements of this Article may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed residential development and the requirements of this Article, or that applying the requirements of this Article would take property in violation of the United States or California Constitutions.

(b) Any request for a waiver, adjustment, or reduction under this Section shall be submitted concurrently with the Affordable Housing Plan required by Section 17-17. The

request for a waiver, reduction, or adjustment shall set forth in detail the factual and legal basis for the claim.

(c) The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan. In making a determination on an application for waiver, adjustment, or reduction, the applicant shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:

(1) That the applicant will provide the most economical inclusionary units feasible meeting the requirements of this Article.

(2) That the applicant is likely to obtain housing subsidies when such funds are reasonably available.

(d) The waiver, adjustment, or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this Section.

Section 17-19. Implementation and Enforcement.

(a) The City Council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this Article.

(b) The City shall evaluate the effectiveness of this ordinance, for review by the City Council, five years after the date of adoption.

(c) The City Attorney shall be authorized to enforce the provisions of this Article and all Inclusionary Housing Agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deed of trust, and other requirements placed on inclusionary units, by civil action and any other proceeding or method permitted by law. The City may, at its discretion, take

such enforcement action as is authorized under the Salinas Municipal Code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this Article.

(d) Failure of any official or agency to fulfill the requirements of this Article shall not excuse any applicant or owner from the requirements of this Article. No permit, license, map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection or Certificate of Occupancy, until all applicable requirements of this Article have been satisfied.

(e) The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

Section 2. Severability.

If any clause, sentence, section, or part of this Article, or any fee or requirement imposed upon any person or entity, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part, or such person or entity, and shall not affect or impair any of the remaining provisions, clauses, sentences, sections, or parts or the effect of this Article on other persons or entities. It is hereby declared to be the intention of the City Council that this Article would have been adopted had such unconstitutional, illegal, or invalid clause, sentence, section, or part not been included herein, or had such person or entity been expressly exempted from the application of this Article.

Section 3. Effective Date.

This ordinance shall take effect and be in force thirty (30) days from and after its adoption by the City Council.

Section 4. Publication.

The Clerk of the City of Salinas is hereby directed to cause the following summary of the ordinance to be published by one (1) insertion in The Californian, a newspaper of general circulation printed and published in Monterey County and published and circulated in the City of Salinas, within fifteen (15) days from and after its adoption:

This ordinance amends the Salinas Municipal Code relating to the provision of inclusionary housing in residential developments. The amendments require that from 20 to 35 percent of new housing in residential developments be affordable to households earning up to one hundred sixty (160) percent of the Monterey County median income. The amendments also set standards for design, affordability, and project review.

The foregoing ordinance was duly introduced and read before the City Council of the City of Salinas, County of Monterey, at the regular meeting of the City Council held on the 19th day of July, 2005, and adopted at a regular meeting of said Council held on the 16th day of August, 2005, by the following vote:

AYES: Councilmembers Barnes, De La Rosa, Giuriato, Lutes
Ocampo, Sanchez, and Mayor Caballero

NOES: None

ABSTAINED: None

ABSENT: None

s/ Anna M. Caballero
Mayor

ATTEST:

APPROVED AS TO FORM:

s/ Ann Camel
City Clerk

s/ Vanessa Vallarta
City Attorney

TABLE ONE

OPTION THREE -- REQUIRED INCLUSIONARY UNITS

Total Number of Units	Total Inclusionary Units	Very Low Income Units	Lower Income Units	Moderate Income Units	Workforce Income Units
20	7	1	2	2	2
21	7	1	2	2	2
22	8	2	2	2	2
23	8	2	2	2	2
24	8	2	2	2	2
25	9	2	3	2	2
26	9	2	3	2	2
27	9	2	3	2	2
28	10	2	3	3	2
29	10	2	3	3	2
30	11	2	3	3	3
31	11	2	3	3	3
32	11	2	3	3	3
33	12	2	4	3	3
34	12	2	4	3	3
35	12	2	4	3	3
36	13	3	4	3	3
37	13	3	4	3	3
38	13	3	4	3	3
39	14	3	5	3	3
40	14	3	5	3	3
41	14	3	5	3	3
42	15	3	5	4	3
43	15	3	5	4	3
44	15	3	5	4	3
45	16	3	5	4	4
46	16	3	5	4	4
47	16	3	5	4	4
48	17	3	6	4	4
49	17	3	6	4	4
50	18	4	6	4	4
51	18	4	6	4	4
52	18	4	6	4	4
53	19	4	6	5	4
54	19	4	6	5	4
55	19	4	6	5	4
56	20	4	7	5	4
57	20	4	7	5	4
58	20	4	7	5	4
59	21	4	7	5	5
60	21	4	7	5	5

Total Number of Units	Total Inclusionary Units	Very Low Income Units	Lower Income Units	Moderate Income Units	Workforce Income Units
61	21	4	7	5	5
62	22	4	8	5	5
63	22	4	8	5	5
64	22	4	8	5	5
65	23	5	8	5	5
66	23	5	8	5	5
67	23	5	8	5	5
68	24	5	8	6	5
69	24	5	8	6	5
70	25	5	8	6	6
71	25	5	8	6	6
72	25	5	8	6	6
73	26	5	9	6	6
74	26	5	9	6	6
75	26	5	9	6	6
76	27	5	9	7	6
77	27	5	9	7	6
78	27	5	9	7	6
79	28	6	10	6	6
80	28	6	10	6	6
81	28	6	10	6	6
82	29	6	10	7	6
83	29	6	10	7	6
84	29	6	10	7	6
85	30	6	10	7	7
86	30	6	10	7	7
87	30	6	10	7	7
88	31	6	11	7	7
89	31	6	11	7	7
90	32	7	11	7	7
91	32	7	11	7	7
92	32	7	11	7	7
93	33	7	11	8	7
94	33	7	11	8	7
95	33	7	11	8	7
96	34	7	12	8	7
97	34	7	12	8	7
98	34	7	12	8	7
99	35	7	12	8	8
100	35	7	12	8	8